

JUL 23 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KATTAR SINGH,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-74745

Agency No. A79-565-984

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted July 14, 2008<sup>\*\*</sup>

Before: SCHROEDER, LEAVY and IKUTA, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")  
order denying petitioner's second motion to reopen proceedings.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

The BIA did not abuse its discretion in denying petitioner's motion to reopen because the motion to reopen was untimely and numerically-barred. *See* 8 U.S.C. § 1229a(c)(7)(A)(i); C.F.R. § 1003.2(c)(2), (3); *Rodriguez-Lariz v. INS*, 282 F.3d 1218, 1222 (9th Cir. 2002). Moreover, although petitioner does not challenge the BIA's determination that he failed to submit material evidence of changed country conditions in support of his motion, the BIA did not abuse its discretion in making that determination. Accordingly, the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (*per curiam*).

Finally, this court lacks jurisdiction to consider petitioner's unexhausted claims that could have been corrected by the Board of Immigration Appeals. *See* 8 U.S.C. § 1252(d)(1); *Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004). This court also lacks jurisdiction to review the BIA's discretionary decision to decline to exercise its *sua sponte* authority to reopen petitioner's case. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002).

Accordingly, respondent's motion for summary disposition, in part, and for dismissal, in part, is granted.

All other pending motions are denied as moot. The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

**PETITION FOR REVIEW DENIED, in part; DISMISSED, in part.**